



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

ELP

Docket No. 7291-00

7 December 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Tew, Caron, and Carlson, reviewed Petitioner's allegations of error and injustice on 6 December 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Naval Reserve on 12 March 1991 for eight years at age 20. He was ordered to active duty for a period of 24 months on 19 March 1991.

d. Petitioner was advanced to SA and served without a disciplinary incident. On 12 March 1993, he was honorably released from active duty within three months of the expiration of his active obligated service and assigned an RE-4 reenlistment code. His military behavior and overall traits averages at time of discharge were both 4.0. His enlisted performance record shows he was "not recommended for reenlistment."

e. Regulations then in effect provided that individuals separated in pay grades E-1 and E-2 could not reenlist and must receive an RE-4 reenlistment code. In October 1993, the regulation controlling the assignment of reenlistment codes was changed and authorized the assignment of an RE-7 reenlistment code to E-1 or E-2 Naval Reserve personnel serving an initial two year period of active duty. An RE-1 reenlistment code means an individual is eligible for reenlistment.

f. Petitioner states that he is currently seeking selection to officer candidate school (OCS), but his current reenlistment code prevents him from further military service. He provides copies of letters from his former division officer and commanding officer (CO) recommending him for selection to OCS. The former CO stated that Petitioner was a very positive young man and his character and performance of duty were exemplary. The CO knew of no reason why an RE-4 reenlistment code was warranted and noted it became an issue only after Petitioner was transferred to the transient personnel unit for separation.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board specifically notes that applicable regulations were changed subsequent to Petitioner's discharge to allow assignment of a more favorable reenlistment code to reservists serving on active duty for two years. Further, the Board notes the commanding officer's comment to the effect that Petitioner should be recommended for reenlistment, and his strong recommendation that Petitioner be considered for an officer candidate program. The Board believes that the assignment of an RE-4 reenlistment was unjust given Petitioner's unblemished service and overall 4.0 performance. Since an RE-7 reenlistment code was not in existence at the time of his separation, the Board concludes that it would appropriate and

just to correct the record to show he was "recommended for reenlistment" and to change his reenlistment code to RE-1 as an exception to policy.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 12 March 1993, to RE-1.

b. That his record be further corrected to show he was "recommended for reenlistment."

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director